

## **EXHIBIT E**

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IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MARYLAND

XEROX CORPORATION, :  
Plaintiff :  
Vs. : CIVIL ACTION NO.  
PHOENIX COLOR CORPORATION: L-02-CV-1734  
and TECHNIGRAPHIX, INC., :  
Defendants :

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Deposition of DONALD C. TYLER, taken on  
Wednesday, March 5, 2003, at 1:28 p.m., at the  
offices of Weinstock, Friedman & Friedman, P.A.,  
Executive Centre, 4 Reservoir Circle, Suite 200,  
Baltimore, Maryland, before Ilana E. Johnston,  
R.P.R. and Notary Public.

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Reported by:  
Ilana E. Johnston, R.P.R.

CRC-SALOMON  
Baltimore, Maryland  
Phone (410) 821-4888 Fax (410) 821-4889

1 A. Repeat the question, please.

2 Q. Would you have signed this lease if your  
3 name was not printed out or written out above  
4 where you signed?

5 MR. GAUMONT: Objection to form. Asked  
6 and answered.

7 A. No, sir.

8 Q. No. Would you have signed this lease  
9 agreement if the customer's name was not filled  
10 out?

11 MR. GAUMONT: Objection to form.

12 A. Yes, sir.

13 Q. Why?

14 A. Because in my dealings with Xerox over  
15 the period of time on numerous lease agreements  
16 my concentration was that I was purchasing the  
17 meat of the contract, which is the components of  
18 the 6180 and the current lease breakdown and my  
19 name and Bruce's name.

20 Q. So it didn't matter to you whose name  
21 was in the space marked customer's legal name?

1 MR. GAUMONT: Objection.

2 Characterization, form. Mr. Friedman, please  
3 keep your voice down.

4 MR. FRIEDMAN: Mr. Gaumont, I'm going to  
5 raise my voice so he can hear me because I don't  
6 want you accusing me of speaking too softly.  
7 We've already had testimony that he doesn't hear  
8 well.

9 MR. GAUMONT: You're yelling.

10 MR. FRIEDMAN: No, I'm speaking loudly  
11 so that he can hear me.

12 Q. Am I speaking too loudly for you?

13 A. A little bit now, yeah. As long as I  
14 can see you, sir.

15 Q. As long as you can see me. All right.

16 A. Yes. Please repeat the question,  
17 please.

18 Q. It didn't matter to you whether the  
19 customer's legal name was filled out?

20 MR. GAUMONT: Objection. Foundation,  
21 form.

1 Q. Is that your testimony?

2 A. I concentrated on the meat of the  
3 contract, sir.

4 Q. So that means you didn't care whether  
5 the customer's name was filled out, correct?

6 MR. GAUMONT: Objection. Form,  
7 characterization.

8 A. No, sir.

9 Q. You did care.

10 MR. GAUMONT: Objection. How many  
11 questions you got out there?

12 Q. You did care.

13 A. Sir, your question was did I look to see  
14 if the name was filled out. And I stated to you  
15 that I concentrated solely on the components of  
16 the contract, the lease agreement and the price.

17 Q. Was it important to you whether the name  
18 of the customer was filled out when you signed  
19 the lease?

20 MR. GAUMONT: Objection to form.

21 A. I did not look at the top of the

1 contract on every contract, sir.

2 Q. Was it important to you whether the name  
3 of the customer was filled out? That's my  
4 question.

5 MR. GAUMONT: Objection to form.

6 A. I can't answer that.

7 Q. I take it then it was not important to  
8 you.

9 MR. GAUMONT: Objection.  
10 Characterization, form.

11 A. Yes, sir, it was important to me.

12 Q. It was important to you, but you didn't  
13 look to see whether it was filled out; is that  
14 your testimony?

15 MR. GAUMONT: Objection to form.

16 A. Yes, sir.

17 Q. Okay. But sitting here today, you don't  
18 have any recollection as to whether it was filled  
19 out completely or not; is that correct?

20 A. No, sir, I don't recall.

21 Q. I will tell you now that the rest of the

1 MR. FRIEDMAN: Okay. Thank you.

2 Q. The first lease in this agreement is  
3 dated March the 10th, 1999. Is that your  
4 signature at the bottom?

5 A. Yes, sir, it is.

6 Q. In order to further identify it, there's  
7 a number at the bottom we're looking at  
8 959392705. Was this filled out as it appears  
9 today before you signed it?

10 MR. GAUMONT: Objection to form.

11 A. I don't recall.

12 Q. Where it says customer name and has your  
13 name written out, Donald Tyler, vice-president,  
14 division director, was that filled out before you  
15 signed it?

16 A. That's my handwriting. I filled that  
17 out.

18 Q. Oh, all right. At the top where it says  
19 a wholly owned subsidiary of Phoenix Color  
20 Corporation, is that your writing?

21 A. No, sir, that's not my writing.

1 Q. Do you know whose writing that is?

2 A. No, sir, I don't.

3 Q. And there appear to be some initials  
4 above it. Do you recognize the initials above it  
5 or whose writing it is?

6 A. Those are my initials.

7 Q. Donald A. Tyler?

8 A. Donald C.

9 Q. Donald C. Tyler?

10 A. DCT.

11 Q. Why did you initial or why did you put  
12 your initials at the top of this lease agreement  
13 next to the customer's legal name?

14 A. I don't recall.

15 Q. You also put it next to requested  
16 install date, which says March 11th, '99. Why  
17 did you initial there?

18 A. Because they was changing both the  
19 install date and the lease agreement price for  
20 the piece of equipment, so I wanted to initial  
21 that we had the right price.



1 Q. It appears that on this particular lease  
2 agreement where it had customer's legal name  
3 there was typed in TechniGraphix, Inc. Do you  
4 see that?

5 MR. GAUMONT: Objection to form.

6 A. Yes, sir, I do.

7 Q. Okay. But then written next to it are  
8 the words a wholly owned subsidiary of Phoenix  
9 Color Corporation. Those written words were not  
10 put there by you?

11 MR. GAUMONT: Objection to form.

12 A. No, sir, they weren't.

13 Q. Not your handwriting.

14 A. No, sir.

15 Q. And you don't recognize the handwriting.

16 A. No, sir, I don't.

17 Q. But it is your initials above that,  
18 correct?

19 A. Yes, sir, that's my initials.

20 Q. Would you agree with me that it's  
21 possible you signed your initials or put your

1 initials above the words a wholly owned  
2 subsidiary of Phoenix Color Corporation to  
3 signify the change made on that contract or the  
4 addition?

5 MR. GAUMONT: Objection to form.

6 A. I don't recall.

7 MR. GAUMONT: Foundation.

8 Q. I realize you don't recall, but would  
9 you agree with me it's possible that's why you  
10 put your initials there?

11 MR. GAUMONT: Objection to form,  
12 foundation.

13 A. I can't answer that.

14 Q. All right. Page 2 of that same lease  
15 agreement has the words again next to  
16 TechniGraphix or customer name a wholly owned  
17 subsidiary of Phoenix Color Corp. Is that your  
18 writing?

19 A. No, sir it's not.

20 Q. The date 3/11/99 where it says requested  
21 install date, is that your writing?